

CALENDAR ITEM

**C33**

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02/07/17

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PRC 8751.1

J. Holt

**GENERAL LEASE – RECREATIONAL AND PROTECTIVE STRUCTURE USE**

**APPLICANT:**

Luther N. Clark, Trustee and Mary H. Clark, Trustee of the Luther N. and Mary H. Clark Revocable Trust, established September 29, 1994

**PROPOSED LEASE:**

*AREA, LAND TYPE, AND LOCATION:*

Sovereign land located in the Sacramento River, adjacent to 6805 Garden Highway, near the city of Sacramento, Sacramento County.

*AUTHORIZED USE:*

Continued use and maintenance of an existing floating boat dock, gangway, two pilings, and bank protection.

*LEASE TERM:*

10 years, beginning June 28, 2017.

*CONSIDERATION:*

**Floating boat dock, gangway, and two pilings:** \$125 per year, with an annual Consumer Price Index adjustment.

**Bank protection:** The public use and benefit, with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State's best interests.

*SPECIFIC LEASE PROVISIONS:*

Liability insurance in an amount no less than \$1,000,000 per occurrence.

**STAFF ANALYSIS AND RECOMMENDATION:**

**Authority:**

Public Resources Code sections 6005, 6216, 6301, and 6503.5; California Code of Regulations, title 2, section 2000, subdivision (b).

## CALENDAR ITEM NO. **C33** (CONT'D)

### **Public Trust and State's Best Interests Analysis:**

On June 28, 2007, the Commission authorized a General Lease – Recreational and Protective Structure Use to Luther N. Clark and Mary H. Clark, as Trustees of the Luther N. and Mary H. Clark Revocable Trust, established September 29, 1994 ([Calendar Item C19, June 28, 2007](#)). That lease will expire on June 27, 2017. The Applicant is now applying for a new lease.

The proposed lease contains the same facilities as the current lease, which consist of an existing floating boat dock and appurtenant facilities used for boating in the Sacramento River. Recreational boating is water-dependent and is generally consistent with the common law Public Trust Doctrine. The California Legislature has identified private recreational boating facilities as an authorized use of Public Trust lands (Pub. Resources Code, § 6503.5).

The subject structures do not significantly alter the land; the lease does not alienate the State's fee simple interest, and neither permanently impairs public rights. Upon termination of the lease, the Lessee may be required to remove any improvements and restore the lease premises to their original condition. Based on the foregoing, Commission staff believes that the existing dock and appurtenant facilities will not substantially interfere with Public Trust needs, at this location at this time, and for the foreseeable term of the proposed lease.

The proposed lease includes certain provisions protecting the public use of the proposed lease area, including a limited lease term of 10 years, and a non-exclusive use provision. The proposed lease requires the Lessee to insure the lease premises and indemnify the State for any liability incurred as a result of the Lessee's activities thereon. The lease also requires the payment of annual rent to compensate the people of the State for the occupation of the public land involved. The bank protection will maintain and improve the integrity of the river channel, which will help protect the Public Trust resources of the river for recreational and navigational purposes by the public.

For all the reasons above, Commission staff believes the issuance of this lease is consistent with the common law Public Trust Doctrine and in the best interests of the State.

### **Climate Change:**

Climate change impacts, including sea-level rise, are not limited to the open coast and may involve increased wave activity, storm events, and

CALENDAR ITEM NO. **C33** (CONT'D)

flooding. The existing structures within the proposed lease area are located along the Sacramento River within a tidally-influenced region. The subject facilities are vulnerable to flooding at current sea levels and at higher risk of flood exposure given future projection scenarios of sea-level rise. By 2030, California's coast could see up to one foot of sea-level rise (from year 2000 levels), two feet by 2050, and possibly more than five feet by 2100 (National Research Council 2012). This effect could increase the Sacramento River's inundation levels within the lease area. In addition, as stated in *Safeguarding California* (California Natural Resources Agency 2014), climate change is projected to increase the frequency and severity of natural disasters related to flooding, drought, and storms (especially when coupled with sea-level rise).

Climate change could have a number of impacts for the region. The amount and timing of snowmelt runoff will likely change such that runoff pulses are earlier in the season and stronger precipitation events will occur over a shorter period of time. This is because warming temperatures will result in more water falling as rain rather than snow, earlier spring snowmelt, and less snowpack overall. In rivers and tidally-influenced waterways, more frequent and powerful storms can result in increased flooding conditions and damage from storm-created debris. In addition, there will be greater amounts of runoff because less water will be trapped at higher altitudes in snowpack. Conversely, climate-change induced droughts could decrease river levels and flow for extended periods of time. Climate change and sea-level rise will further influence coastal and riverine areas by changing erosion and sedimentation rates. In rivers and tidally influenced waterways, flooding and storm flow will likely increase scour, decreasing bank stability and structure.

The combination of these projected conditions could potentially raise the likelihood of damage to structures within the lease premises during the term of the lease. For example, the potential for more frequent and stronger storm events may expose the lease area structures to higher flood risks and cause structures to be damaged or dislodged, presenting hazards to public safety, as well as dangers for navigation within the channel. Conversely, prolonged drought conditions could lower water levels exposing previously submerged structures to the elements potentially leading to increased wear and tear on the pilings and dock, reduce navigability of the channel thereby increasing hazards, and impact the function and utility of the lease area structures.

The floating dock and gangway are adaptable to variable water levels, allowing them to rise and fall with storms and droughts and increasing

CALENDAR ITEM NO. **C33** (CONT'D)

their resiliency to some climate change impacts, but may require more frequent maintenance to ensure continued function during and after storm seasons and to avoid dislodgement of dock facilities. The fixed features may need to be reinforced to withstand higher levels of flood exposure. The bank is heavily vegetated, which provides stability and reduces the amount of erosion and scour pressure it may experience during future events, but remains at risk of accelerated deterioration from currents and floods. Regular maintenance, as required by the terms of the lease, will reduce the likelihood of severe structural degradation or dislodgement. Pursuant to the proposed lease, the Applicant acknowledges that the lease premises and adjacent upland are located in an area that may be subject to effects of climate change, including sea-level rise.

**OTHER PERTINENT INFORMATION:**

1. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction.
2. Staff recommends that the Commission find that this activity is except from the requirements of the California Environmental Quality Act (CEQA) as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300 and California Code of Regulations, title 2, section 2905.

3. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. Based upon staff's consultation with the persons nominating such lands and through the CEQA review process, it is staff's opinion that the project, as proposed, is consistent with its use classification.

**EXHIBITS:**

- A. Land Description
- B. Site and Location Map

CALENDAR ITEM NO. **C33** (CONT'D)

**RECOMMENDED ACTION:**

It is recommended that the Commission:

**CEQA FINDING:**

Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically exempt project, Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

**PUBLIC TRUST AND STATE'S BEST INTERESTS:**

Find that the proposed lease will not substantially interfere with the Public Trust needs and values at this location at this time, is consistent with the common law Public Trust Doctrine, and is in the best interests of the State.

**SIGNIFICANT LANDS INVENTORY FINDING:**

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

**AUTHORIZATION:**

Authorize issuance of a General Lease – Recreational and Protective Structure Use to Luther N. Clark, Trustee and Mary H. Clark, Trustee of the Luther N. and Mary H. Clark Revocable Trust, established September 29, 1994, beginning June 28, 2017, for a term of 10 years, for an existing uncovered floating boat dock, gangway, two pilings, and bank protection, as shown on Exhibit A attached and by this reference made a part hereof; annual rent in the amount of \$125; with an annual Consumer Price Index adjustment; consideration for the bank protection: the public use and benefit, with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State's best interests; and liability insurance in an amount no less than \$1,000,000 per occurrence.

**EXHIBIT A**

**PRC 8751.1**

**LAND DESCRIPTION**

A parcel of tide and submerged land situate in the bed of the Sacramento River, lying adjacent to Swamp and Overflowed Land Survey 922 patented June 16, 1898, County of Sacramento, State of California and more particularly described as follows:

All those lands underlying an existing uncovered floating boat dock, gangway and two pilings lying adjacent to that parcel described in Grant Deed, recorded September 17, 2009 in Book 20090917 at Page 0738 in Official Records of said County.

TOGETHER WITH any applicable Impact Area(s).

ALSO TOGETHER WITH that land lying immediately beneath any bank protection structure adjacent to said parcel.

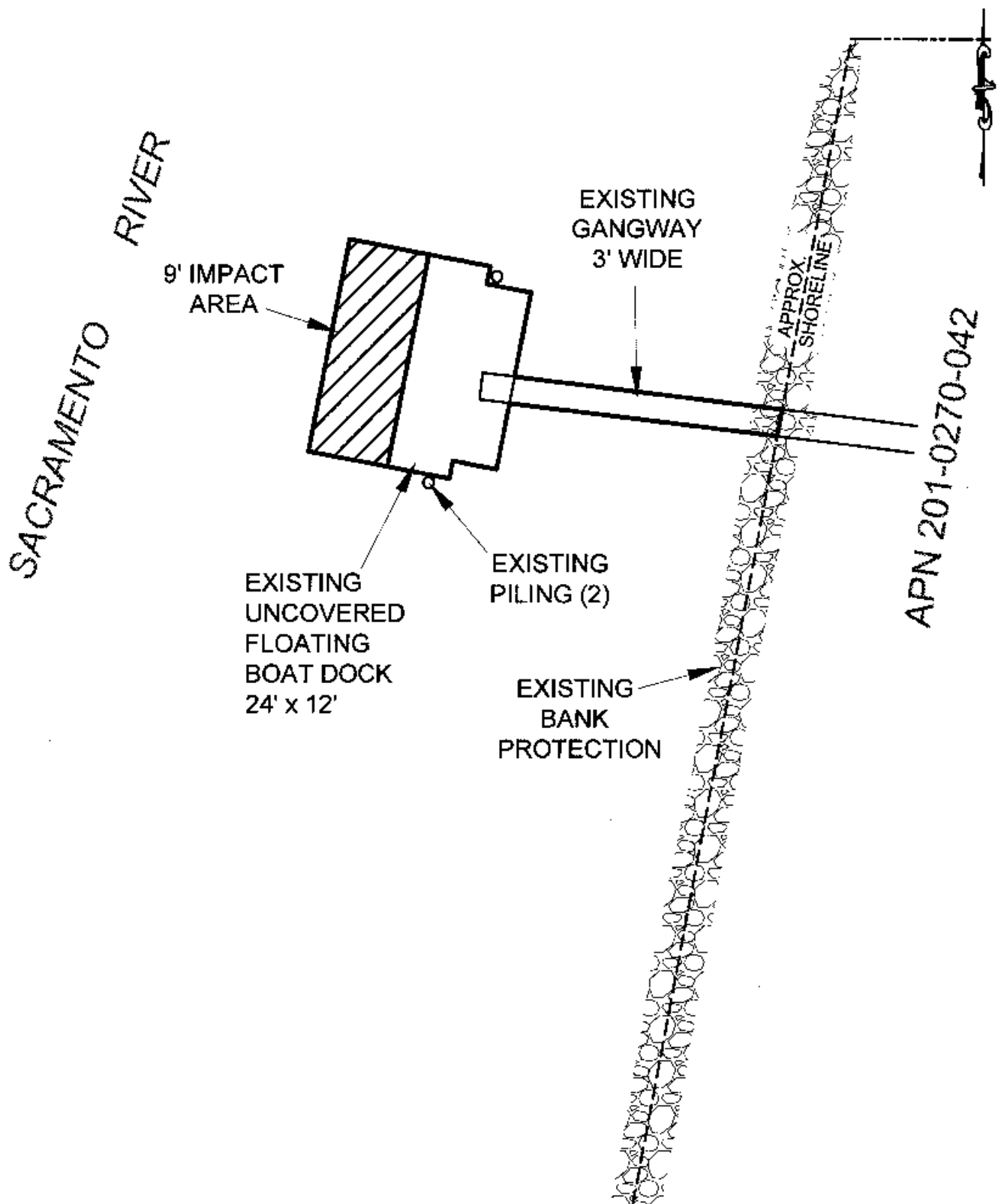
EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of the left bank of said river.

Accompanying plat is hereby made part of this description.

**END OF DESCRIPTION**

Prepared 11/30/16 by the California State Lands Commission Boundary Unit





## EXHIBIT A

Page 2 of 2

TS 11/30/16

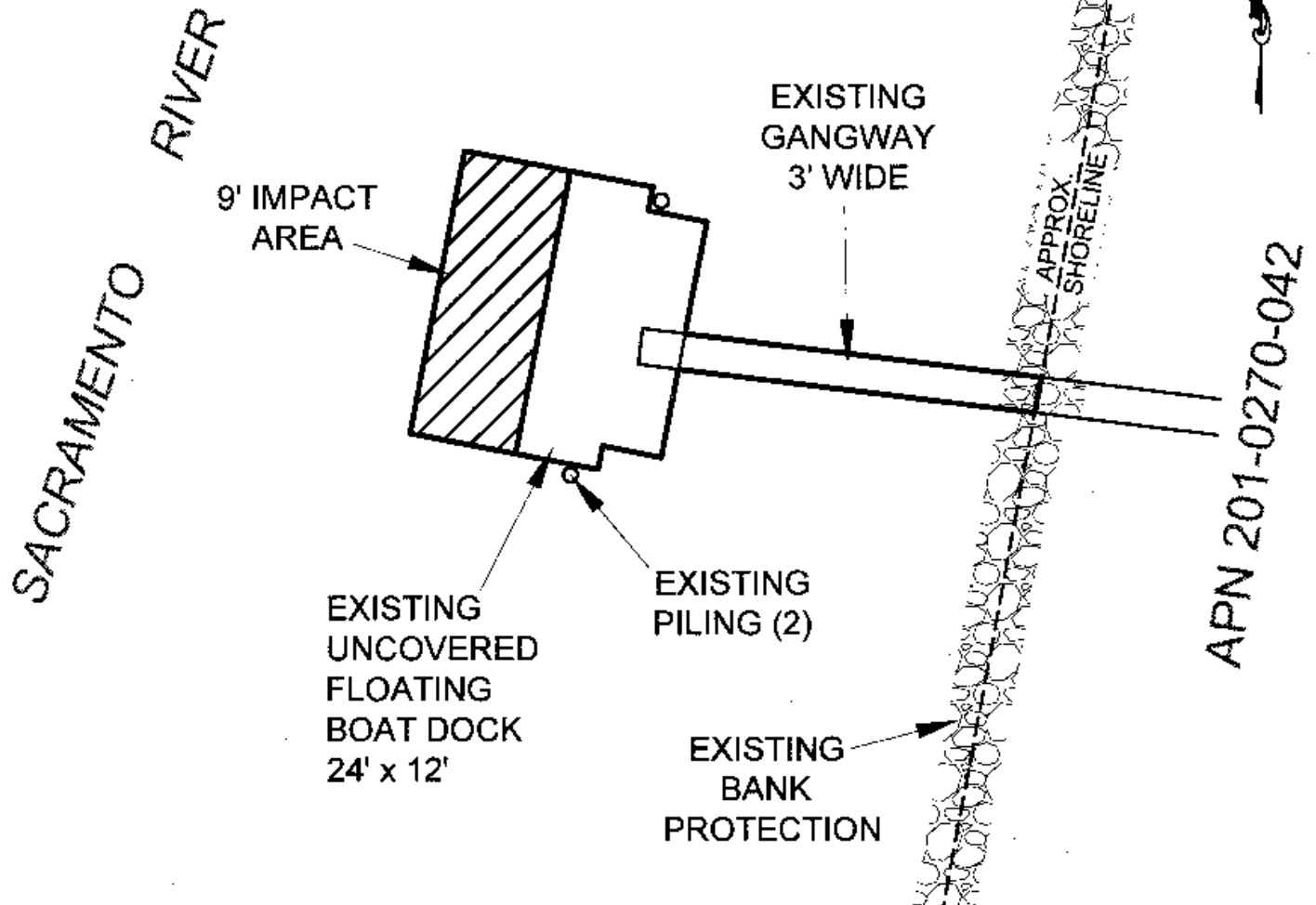
LAND DESCRIPTION PLAT  
PRC 8751.1, CLARK, TRUSTEES  
SACRAMENTO COUNTY

CALIFORNIA STATE  
LANDS COMMISSION



NO SCALE

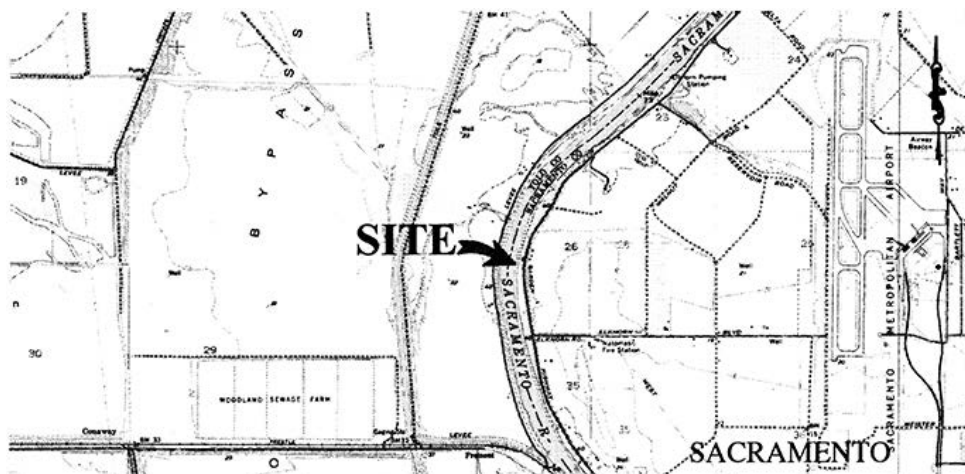
## SITE



6805 GARDEN HIGHWAY, SACRAMENTO

NO SCALE

## LOCATION



MAP SOURCE: USGS QUAD

This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

## **Exhibit B**

PRC 8751.1

CLARK, TRUSTEES

APN 201-0270-042

GENERAL LEASE-  
RECREATIONAL AND  
PROTECTIVE STRUCTURE USE  
SACRAMENTO COUNTY



TS 11/30/16